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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/777,057	02/05/2001	David Leslie	11-SW-4913	2498

7590

11/16/2005

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EXAMINER

FISCHER, ANDREW J

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/777,057

Applicant(s)

LESLIE ET AL.

Examiner

Andrew J. Fischer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 and 32-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 and 32-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Acknowledgements

1. Applicants' amendment filed August 10, 2005 is acknowledged. Accordingly, claims 1-29 and 32-47 remain pending.
2. This Office Action, the "Second Final Office Action" is given Paper No. 20051110.
3. All references in this Office Action to the capitalized versions of "Applicants" refers specifically the Applicants of record. References to lower case versions of "applicant" or "applicants" refers to any or all patent "applicants." Unless expressly noted otherwise, references to "Examiner" in this Office Action refers to the Examiner of record while reference to or use of the lower case version of "examiner" or "examiners" refers to examiner(s) generally.
4. This application in an image file wrapper ("IFW") application. Applicants' response is therefore separated before being placed into the IFW system (*i.e.* claims, remarks, drawings, etc. are separated and independently scanned). To ensure proper handling by the Examiner, the Examiner highly recommends Applicants place the application serial no (*e.g.* 06/123,456) in a header or footer (or other appropriate area) of *each* page submitted. At the very least, the Examiner highly recommends this practice for all pages listing the claims.
5. This Office Action is written in OACS. Because of this, the Examiner is unable to control formatting, paragraph numbering, font, spelling, line spacing, and/or other word processing issues. The Examiner sincerely apologizes for these errors.

Claim Rejections - 35 USC §112 1st Paragraph

6. The following is a quotation of the first paragraph of 35 U.S.C. §112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 1-26 are rejected under 35 U.S.C. §112, 1st paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.
8. In at least claim 1, it is the Examiner's factual determination that although the "an event message annunciated by a light emitting diode (LED) annunciator" may be obvious in view of the original disclosure, "an event message annunciated by a light emitting diode (LED) annunciator" is not necessarily present in the originally filed specification.
9. In at least claim 32, it is the Examiner's factual determination that although "an electrical schematic of the parallel switchgear system automatically generated based on information" may be obvious in view of the original disclosure, "an electrical schematic of the parallel switchgear system automatically generated based on information" is not necessarily present in the originally filed specification.
10. In at least claims 6, 15, 26, 32, it is the Examiner's factual determination that although the "an interface configured to receive an event message annunciated based on an occurrence" may be obvious in view of the original disclosure, the "an interface configured to receive an event message annunciated based on an occurrence" is not necessarily present in the originally filed specification.

Claim Rejections - 35 USC §112 2nd Paragraph

11. The following is a quotation of the 2nd paragraph of 35 U.S.C. §112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. Claims 6, 15-29 and 32-47 are rejected under 35 U.S.C. §112, 2nd paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. In claims 6, 15, 26, and 32, it is unclear what the phrase “based on an occurrence of an event message” is in reference to. Moreover, the phrase “to receive an event message annunciated based on an occurrence of an event message” does not make grammatical sense. Applicants are reminded that “[a] claim must be read in accordance with the precepts of English grammar.” *In re Hyatt*, 708 F.2d 712, 714, 218 USPQ 195, 197 (Fed. Cir. 1983).

13. The Examiner finds that because the claims are indefinite under 35 U.S.C. §112 2nd paragraph, it is impossible to properly construe claim scope at this time. See *Honeywell International Inc. v. ITC*, 68 USPQ2d 1023, 1030 (Fed. Cir. 2003) (“Because the claims are indefinite, the claims, by definition, cannot be construed.”). However, in accordance with MPEP §2173.06 and the USPTO’s policy of trying to advance prosecution by providing art rejections even though these claim are indefinite, the claims are construed and the art is applied *as much as practically possible*.

14. “If the scope of the invention sought to be patented is unclear from the language of the claim, a second paragraph rejection will properly lie.” *In re Wiggins*, 488 F.2d 538, 179 USPQ 421, 423 (CCPA 1973).

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Claim Rejections - 35 USC §103

15. The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 1-29 and 32-47 rejected under 35 U.S.C. §103(a) as being unpatentable over Applicants admitted prior art. Page 1 and 2 of Applicants' original specification states that parallel switchgear was typically done by an applications engineer. Applicants also state in paragraph no. [0007] "It would be desirable to have a network based method for user to automatically configure and order a parallel switch gear system. The Examiner finds that Applicants have admitted that the manual selection of switchgear and its components is old and well know in the art. Thus the prior art does not disclose an automatic orienting system. However, providing an automatic means to replace a manual activity which accomplishes the same result is not sufficient to distinguish the claimed invention over the prior art in terms of patentability. *In re Venner*, 262 F.2d 91, 95, 120 USPQ 93, 94 (CCPA 1958). See MPEP §2144.04 III. For an example of automating the selection of power generation equipment, see Avery.

17. Claims 1-29 and 32-47 are alternatively rejected under 35 U.S.C. §103(a) as being unpatentable over Avery et. al. (U.S. 2003/0208365 A1)("Avery") in view of Applicants' admitted prior art and Sherif Danish et. al.'s Building Database-Driven Web Catalogs

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(“Danish”).¹ It is the Examiner’s principle position that the claims are anticipated because a transformer is a type of switch gear.

Avery discloses accessing a product configuration system 100; selecting switch gear product configurations related to parallel switch gear (transformers are related to switch gear since both are used in the power generation industry; receiving a bill of material [0057] and price quotation [0056] corresponding to the ordered product; automatically generating an equipment elevation drawing (inherent in the wiring drawings) and an electrical schematic (inherent since it must output how the transformer is wired); the system uses a graphical user interface (windows). However if a reviewing body finds that a transformer is not switch gear, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Avery as taught by Applicant’s admitted prior art. In this alternatively approach, Avery discloses the claimed invention but does not disclose switch gear. Alternatively, Danish discloses a configurator (page 71). Applicants have admitted that the manual ordering and assembly is old and well known. Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Avery and replace the transformer with switch gear. Such a modification would have replaced the conventional process of for ordering power generation components which was expensive, labor intensive, and time consuming.

18. Finally, claims 1-29 and 32-47 are alternatively rejected under 35 U.S.C. §103(a) as being unpatentable over Avery in view of Krakovich et. al. (U.S. 6,633,799 B2)(“Krakovich”), Nick (U.S. 6,003,012) and Danish. This is an alternative rejection.

¹ See MPEP §2112 expressly authorizing alternative §102/§103 rejections when the question of

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If a reviewing body finds that Avery does not disclose switch gear, Krakovich directly discloses configurable switch gear. Moreover, if a reviewing body finds that Avery does not inherently disclose an elevation drawing, Nick directly discloses a an elevation drawing and a wiring schematic. Alternatively, Danish discloses a configurator (page 71). Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Avery as taught respectively by both Krakovich and Nick to include Krakovich's switch gear and Nick's drawings and wiring schematics. Such a modification would have directly discloses that which is already inherent in Avery.

19. Because Applicants have not objectively indicated and redefined claim limitation(s) to have meanings other than their ordinary and accustomed meanings, the Examiner concludes that Applicants have decided not to be their own lexicographer. To support this position, the Examiner relies on the following factual findings. First and as noted in the previous Office Action,² the Examiner has carefully reviewed the specification and prosecution history and can not locate any lexicographic definition(s). Second, the Examiner finds that not only have Applicants not pointed to definitional statements in their specification or prosecution history, Applicants have also not pointed to a term or terms in a claim with which to draw in those statements³ with the required clarity, deliberateness, and precision.⁴ Third, after receiving

inherency is present in the anticipation rejection.

² See the Examiner's previous Office Action mailed May 10 2005, Paper No. 05032005, Paragraph No. 15.

³ "In order to overcome this heavy presumption in favor of the ordinary meaning of claim language, it is clear that a party wishing to use statements in the written description to confine or otherwise affect a patent's scope must, *at the very least*, point to a term or terms in the claim with which to draw in those statements. [Emphasis added.]" *Johnson Worldwide Assocs. v. Zebco Corp.*, 175 F.3d 985, 989, 50 USPQ2d 1607, 1610 (Fed. Cir. 1999).

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express notice in the previous Office Action of the Examiner's position that lexicography is not invoked,⁵ Applicants have not pointed out the "supposed errors" in the Examiner's position regarding lexicography invocation in accordance with 37 C.F.R. §1.111(b) (i.e. Applicants have not argued lexicography is invoked). Finally and to be sure of Applicants' intent, the Examiner also notes that Applicants have declined the Examiner's express invitation⁶ to be their own lexicographer. ⁷ It remains the Examiner's position that these requirements were reasonable.⁸ Accordingly and for due process purposes, the Examiner gives notice that for the remainder of the examination process (and unless expressly noted otherwise by the Examiner), the heavy

⁴ "The patentee's lexicography must, of course, appear 'with reasonable clarity, deliberateness, and precision' before it can affect the claim." *Renishaw PLC v. Marposs Societa' per Azioni*, 158 F.3d 1243, 1249, 48 USPQ2d 1117, 1121 (Fed. Cir. 1998) citing *In re Paulsen*, 30 F.3d 1475, 1480, 31 USPQ2d 1671, 1674 (Fed. Cir. 1994).

⁵ See again the Third Non Final Office Action mailed May 10, 2005, Paper No. 05032005, Paragraph No. 15.

⁶ Id.

⁷ See e.g. *Fuji Photo Film Co. v. ITC*, 386 F.3d 1095, 72 USPQ2d 1769, 1773 (Fed. Cir. 2004) (noting that applicants' failure to correct the examiner's characterization of an element of claim interpretation is nevertheless an indication of how a claim should be interpreted since applicant declined the examiner's express invitation to correct a possible error in claim interpretation: "applicant's attention was called to the examiner's interpretation of [how the element was interpreted by the examiner, and] applicant was invited to correct the examiner's interpretation—an invitation the applicant did not accept.").

⁸ The Examiner's requirements on this matter were reasonable on at least two separate and independent grounds. First, the Examiner's requirements were simply an express request for clarification of how Applicants intend their claims to be interpreted so that lexicography (or even an *attempt* at lexicography) by Applicants was not inadvertently overlooked by the Examiner. Second, the requirements were reasonable in view of the USPTO's goals of compact prosecution, productivity with particular emphasis on reductions in both pendency and cycle time, and other goals as outlined in the USPTO's The 21st Century Strategic Plan, February 3, 2003 available at www.uspto.gov/web/offices/com/strat21/index.htm (last accessed November 10, 2005).

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presumption in favor of the ordinary and accustomed meaning is not overcome; the claims therefore continue to be interpreted with their “broadest reasonable interpretation” In *re Morris*, 127 F.3d 1048, 1054, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997).⁹ The Examiner now relies heavily and extensively on this interpretation.¹⁰ Unless expressly noted otherwise by the Examiner, the preceding claim interpretation principles in this paragraph apply to all examined claims currently pending.

20. Under the broadest reasonable interpretation standard noted above and unless expressly modified in this Office Action, the Examiner maintains his interpretations including the statements and/or definitions of claim limitations as noted in previous Office Action. Those previous definitions are part of the administrative record and, in accordance with *In re Morris*, are provided simply as a factual source to support the Examiner’s claim interpretations (and ultimately the Board of Patent Appeals and Interferences claim interpretations if necessary¹¹) during *ex parte* examination.

⁹ See also *In re Bass*, 314 F.3d 575, 577, 65 USPQ2d 1156, 1158 (Fed. Cir. 2002) (“In examining a patent claim, the PTO must apply the broadest reasonable meaning to the claim language, taking into account any definitions presented in the specification. Words in a claim are to be given their ordinary and accustomed meaning unless the inventor chose to be his own lexicographer in the specification”) (citations omitted); *In re Etter*, 756 F.2d 852, 858, 225 USPQ 1, 5 (Fed. Cir. 1985) (en banc); and MPEP §§ 2111 and 2111.01.

¹⁰ See 37 C.F.R. §1.104(c)(3) which states in part: “the examiner may rely upon admissions by applicant . . . as to *any matter* affecting patentability [Emphasis added.]”

¹¹ See *Gechter v. Davidson*, 116 F.3d 1454, 1460, 43 USPQ2d 1030, 1035 (Fed. Cir. 1997) (“[W]e hold that the Board is required to set forth in its opinions specific findings of fact and conclusions of law adequate to form a basis for our review.”).

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21. Additionally, the Examiner notes that “the PTO and the CCPA acknowledged product-by-process claims as an exception to the general rule requiring claims to define products in terms of structural characteristics.” *Atlantic Thermoplastics Co. v. Faytex Corp.*, 970 F.2d 834, 845, 23 USPQ2d 1481, 1490 (Fed. Cir. 1992) (hereinafter “*Atlantic Thermoplastics v. Faytex I*”). Furthermore, the Federal Circuit “acknowledges that it has in effect recognized . . . product-by-process claims as exceptional.” *Atlantic Thermoplastics v. Faytex I*, 970 F.2d at 847, 23 USPQ2d at 1491.

Because of this exceptional status, the Examiner has carefully reviewed the claims and it is the Examiner’s position that claims 1-29 and 32-47 *do not* contain any product-by-process limitations whether in a conventional format or otherwise. If Applicants disagree with the Examiner, the Examiner respectfully requests Applicants in their next response to expressly point out any product-by-process claim(s) and their limitations so that they may be afforded their exceptional status and treated accordingly. Applicants are reminded that “even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself.” *In re Thorpe*, 777 F.2d 695, 697, 227 USPQ 964, 966 (Fed. Cir. 1985) (citations omitted).¹² Failure by Applicants in their next response to also address this issue in accordance with 37 C.F.R. §1.111(b) or to be non-responsive to this issue entirely will be considered intent by Applicant(s) *not* to recite any product-by-process limitations. Unless expressly noted otherwise by the Examiner, the preceding discussion on product-by-process principles applies to all examined claims currently pending.

¹² See also MPEP §2113.

Response to Arguments

22. Applicants' arguments filed August 10, 2005 have been fully considered but they are not persuasive.

23. Applicants have overcome the 35 U.S.C. §101 rejections.

24. Regarding the 35 U.S.C. §112, 2nd paragraph rejections and Applicants' arguments that one of ordinary skill would understand the claims if the specification was considered, it is the Examiner's position that this method of claim interpretation is for inter partes litigation—not ex parte examination. During ex parte examination, if a claim is indefinite on its face, a 35 U.S.C. §112, 2nd paragraph rejection is proper. The specification can not be used to rectify the indefiniteness. "If the scope of the invention sought to be patented is unclear from the language of the claim, a second paragraph rejection will properly lie." *In re Wiggins*, 488 F.2d 538, 179 USPQ 421, 423 (CCPA 1973).

25. In light of the new matter rejections contained herein, Applicants' arguments regarding the prior art moot since the differences between the claimed invention and the prior art lie in the newly added matter.

Conclusion

26. Applicants' amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP §706.07(a). Applicants are reminded of the extension of time policy as set forth in 37 C.F.R. §1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 C.F.R. §1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

27. References considered pertinent to Applicants' disclosure are listed on form PTO-892.

All references listed on form PTO-892 are cited in their entirety.

28. The following three (3) citations to the Manual of Patent Examining Procedure ("MPEP") apply to this Office Action: MPEP citations to Chapters 200-900, 1200-1400, and 1700-1900, 2100, 2200, 2600 are from the MPEP 8th Edition, Rev. 3, August 2005. MPEP citations to Chapters 100, 1000, 1100, 1500, 2000, 2500, and 2700 are from the MPEP 8th Edition, Rev. 2, May 2004. MPEP citations to Chapters 1600, 2300, 2400 are from MPEP 8th Edition, August 2001.

29. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

30. Applicants are reminded that patents are written by and for skilled artisans. See *Vivid Technologies, Inc. v. American Science and Engineering, Inc.*, 200 F.3d 795, 804, 53 USPQ2d

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1289, 1295 (Fed. Cir. 1999) (“patents are written by and for skilled artisans”). The Examiner therefore starts with the presumption that Applicants are skilled artisans who possess at least ordinary skill in the art. Consequently, it is the Examiner’s position that because the patent references of record are directed to those with ordinary skill in this art, these references are clear, explicit, and specific as to what they teach. Nevertheless some applicants apparently have difficulty understanding the references. In an effort to maintain compact prosecution, provide due process, and to help these applicants understand the contents of a reference when viewed from the position of one of ordinary skill in this art, Applicants are hereby given actual notice that if after reasonably reading any reference of record, if Applicants can not reasonably understand or if Applicants have difficulty comprehending one or more sentence(s), statement(s), diagram(s), or principle(s) set forth in one or more of the reference(s) of record, Applicants should (in their next appropriately filed response) bring this issue to the attention of the Examiner. In addition to bringing this issue to the attention of the Examiner, and in accordance with 37 C.F.R. §1.111(b), Applicants response must also state *why* they either do not understand or have difficulty comprehending the reference. If after properly receiving (*i.e.* Applicants’ response is made of record) both Applicant’s request for understanding and the reasons as to *why* the request is made—and assuming the reference is germane to at least one outstanding rejection—the Examiner may either provide a substitute reference, or alternatively, do his best to elucidate the particular sentence(s), statement(s), diagram(s), or principles(s) at issue in a reasonable manner.

31. Because this application is now final, Applicants are reminded of the USPTO’s after final practice as discussed in MPEP §714.12 and §714.13 and that entry of amendments after final is

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not a matter of right. “The refusal of an examiner to enter an amendment after final rejection of claims is a matter of discretion.” *In re Berger*, 279 F.3d 975, 984, 61 USPQ2d 1523, 1529 (Fed. Cir. 2002) (citations omitted). Furthermore, suggestions or examples of claim language provided by the Examiner are just that—suggestions or examples—and do not constitute a formal requirement mandated by the Examiner. Unless stated otherwise by an express indication that a claim is “allowed,” exemplary claim language provided by the Examiner to overcome a particular rejection or to change claim interpretation has *not been addressed* with respect to other aspects of patentability (*e.g.* §101 patentable subject matter, §112 1st paragraph written description and enablement, §112 2nd paragraph indefiniteness, and §102 and §103 prior art). Therefore, any claim amendment submitted under 37 C.F.R. §1.116 that incorporates an Examiner suggestion or example or simply changes claim interpretation will nevertheless require further consideration and/or search and a patentability determination as noted above.

32. In accordance with *In re Lee*, 277 F.3d at 1344-45, 61 USPQ2d at 1434-35, the Examiner finds that the reference Purchasing & Supply Management, Text and Cases, 6th Ed. by Dobler et. al. (“Dobler”) is additional evidence of what is basic knowledge or common sense to one of ordinary skill in this art. The Examiner finds that Dobler describes basic supply management practices which would be used by one who purchases switchgear products, switchgear assemblies, and/or switchgear subassemblies. The reference is cited in its entirety. The Examiner notes that each chapter is designed to ‘stand by itself.’ Because “[w]ell known text books in English are obvious research materials.” *In re Howarth*, 654, F.2d 103, 210 USPQ 689, 692 (CCPA 1981), because this textbook is self described as a “basic text,” because the textbook is in its 6th edition and its forth decade of use, the Examiner finds that Dobler is obvious research

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material. After further review of the entire record including the prior art now of record in conjunction with the factors as discussed in MPEP §2141.03 (where practical), the Examiner finds that Dobler is primarily directed towards those of low skill in this art. Because Dobler is directed towards those of low skill in this art, the Examiner finds that one of ordinary skill in this art must—at the very least—be aware of and understand the knowledge and information contained within Dobler.

33. In accordance with the USPTO's goals of customer service, compact prosecution, and reduction of cycle time, the Examiner has made every effort to clarify his position regarding claim interpretation and any rejections or objections in this application. Furthermore, the Examiner has again provided Applicants with notice—for due process purposes—of his position regarding his factual determinations and legal conclusions. The Examiner notes and thanks Applicants for their "Remarks" (beginning on page 13) traversing the Examiner's positions on various points. If Applicants disagree with any additional factual determination or legal conclusion made by the Examiner in this Office Action whether expressly stated or implied,¹³ the Examiner respectfully reminds Applicants to properly traverse the Examiner's position(s) in accordance with 37 C.F.R. §1.111(b) in their next properly filed response. By addressing these issues now, matters where the Examiner and Applicants agree can be eliminated allowing the Examiner and Applicants to focus on areas of disagreement (if any) with the goal towards allowance in the shortest possible time. If Applicants have any questions regarding the Examiner's positions or have other questions regarding this communication or even previous communications, Applicants are strongly encouraged to contact Examiner Andrew J. Fischer

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whose telephone number is (571) 272-6779. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's immediate supervisor, Alexander Kalinowski, can be reached at (571) 272-6771. The fax number for facsimile responses is now (571) 273-8300.

Handwritten signature of Andrew J. Fischer and the date 11/10/05.

Andrew J. Fischer
Primary Examiner
Art Unit 3627

AJF
November 10, 2005

¹³ *E.g.*, if the Examiner rejected a claim under §103 with two references, although not directly stated, it is the Examiner's implied position that the references are analogous art.